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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/950,042

09/10/2001

Ilan Rosenberg

22868-31

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26418

7590

01/21/2005

REED SMITH, LLP

ATTN: PATENT RECORDS DEPARTMENT

599 LEXINGTON AVENUE, 29TH FLOOR

NEW YORK, NY 10022-7650

EXAMINER

NI, SUHAN

ART UNIT

PAPER NUMBER

2643

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/950,042

Applicant(s)

ROSENBERG, ILAN

Examiner

Suhan Ni

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This communication is responsive to the application filed 09/10/2001.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, “a voice collector” must be shown or the feature(s) canceled from the claim 5. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office Action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1 and 3-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Chan (U. S. Pat. - 5,528,689).

Regarding claim 1, Chan discloses a hearing and talking aid device for cellular phone (Figs. 1 and 5), comprising: a first impervious tube (16) having a first opening and a second opening, said first opening is aerodynamically communicating with a microphone of the cellular phone and the second opening is suspended in the vicinity of the user's mouth; a second impervious tube (14) having a third opening and a fourth opening, said third opening is aerodynamically communicating with a speaker of the cellular phone and the fourth opening is held in the user's external acoustic meatus, whereby acoustic waves progress from the user's mouth to the microphone and other acoustic waves progress from the speaker to the user's ear and electromagnetic radiation is not scattered in the vicinity of the user's head as claimed.

Regarding claims 3-5, Chan further discloses the device, wherein a portion of said first impervious tube is adjacent to an arm (38) that directs said second opening to the mouth of the user, said arm is made of a stiff material and an end of said arm is provided with a voice collector (40), and said second opening is clipped in said voice collector.

Regarding claims 6-7, Chan further discloses the device, wherein a portion of said second impervious tube is adjacent to an arm (22, 26) that directs said fourth opening to the ear of the user and said arm is adapted to suspend on an auricle of the user (Fig. 1).

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Regarding claim 8, Chan further discloses the device, wherein said fourth opening pass through a cushion (28), said cushion is adapted to be accommodated in the external ear so that said fourth opening is directed towards the user's external acoustic meatus.

4. Claims 1-2 and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Larkin (U. S. Pat. - 4,090,042).

Regarding claim 1, Larkin discloses a hearing and talking aid device for cellular phone (Fig. 1), comprising: a first impervious tube (12) having a first opening and a second opening, said first opening is aerodynamically communicating with a microphone of the cellular phone and the second opening is suspended in the vicinity of the user's mouth; a second impervious tube (14) having a third opening and a fourth opening, said third opening is aerodynamically communicating with a speaker of the cellular phone and the fourth opening is held in the user's external acoustic meatus, whereby acoustic waves progress from the user's mouth to the microphone and other acoustic waves progress from the speaker to the user's ear and electromagnetic radiation is not scattered in the vicinity of the user's head as claimed.

Regarding claim 2, Larkin further discloses the device, wherein said first impervious tube and said second impervious tube pass through an Y-shaped element that directs each of the tubes to a different direction (Fig. 4).

Regarding claim 9, Larkin further discloses the device, wherein said first impervious tube and said second impervious tube are made from a flexible material (col. 2, line 47).

Regarding claim 10, Larkin further discloses the device, wherein a mount (31-34) is adapted to be mounted onto the cellular phone, said mount is provided with a first pipe having a first aperture aerodynamically communicating with the phone's microphone and a second

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aperture, and a second pipe having a third aperture aerodynamically communicating with the phone's speaker and a fourth aperture as claimed (Fig. 3).

Regarding claim 11-13, Larkin further discloses the device, wherein said second aperture is aerodynamically communicating with said first opening and said fourth aperture is aerodynamically communicating with said third opening as claimed (Figs. 1 and 3).


### *Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Suhan Ni** whose telephone number is (703)-308-9322, and the number for fax machine is (703)-305-9508. The examiner can normally be reached on Monday through Thursday from 9:00 am to 7:30 pm. If it is necessary, the examiner's supervisor, **Curtis Kuntz**, can be reached at (703) 305-4708.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.

SN

  
**SUHAN NI**  
**PRIMARY EXAMINER**

January 19, 2005